

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
W/S Nicodemus Road, 1000 ft. * ZONING COMMISSIONER
W of c/o Berrymans Lane * OF BALTIMORE COUNTY
1000 Nicodemus Road *
4th Election District * Case No. 93-145-A
3rd Councilmanic District *
Andrew I. David *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property located at 1000 Nicodemus Road in the northwest section of Baltimore County. The Petitioner, Andrew I. David, seeks a variance from Section 1A03.4.B.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a side yard setback of 11 ft. on the west side of the subject property, in lieu of the previously approved setback of 20 ft. in case No. 91-420-A. The relief requested is more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Variance.

Appearing at the public hearing scheduled for this case was the property owner/Petitioner, Andrew I. David. Appearing in opposition to the Petition was David L. Bissett, who owns the property which abuts the subject lot on its east side.

Testimony and evidence presented was that the subject lot is a narrow, yet deep, lot which fronts Nicodemus Road. The lot is rectangular in shape and is 97.19 ft. in width, and approximately 950 ft. in depth. The property is zoned R.C.4 and is 2.10 acres in total area. Testimony and

evidence presented was that the side yard setbacks required for the property by the B.C.Z.R. are 50 ft. Further, because of the narrowness and unusual configuration of the lot, the Petitioner previously filed for a variance within case No. 91-420-A. That case sought a variance to permit a 97.91 ft. diametrical dimension in lieu of the required 300 ft. and a variance to allow a 20 ft. western property line side yard setback and a 12.91 ft. eastern side yard setback. By his Order dated July 16, 1991, Zoning Commissioner J. Robert Haines granted, in part, and denied, in part, the relief requested. Specifically, he granted the diametrical dimension variance and also permitted a side yard setback of 20 ft. on the western property line. However, he denied the Petitioner permission to allow a 12.91 ft. eastern side yard setback; rather ordered that a 30 ft. side yard setback from the eastern boundary line must be maintained.

The Petitioner now returns requesting an amendment of that Order as it relates to the western property line. In lieu of the 20 ft. side yard setback previously granted, the Petitioner requests a variance to permit an 11 ft. setback, thereby decreasing the variance distance by 9 ft. The 30 ft. eastern side yard setback would remain as required in Commissioner Haines' Order. Mr. David testified that this amendment was necessary because of the narrowness of the lot and the need to allow a reasonably sized building envelope for the proposed construction of his dwelling. He also noted that he proposes constructing a rancher style house due to the anticipated need for additional living space on one floor within the dwelling by his elderly parents. Mr. David also produced a letter in support of the variance from Gerald H. Myers, the owner of the tract on the eastern side of the property. This property owner, who would be most affected by the proposed variance, supports the Petition. Mr. David also noted

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that he intends on preserving the natural landscape on the site except for what must be disturbed for construction. He described the site as mostly wooded.

Appearing in opposition was David L. Bissett, who owns the property on the western side of the subject lot. That property is now vacant, although Mr. Bissett testified that he intends on constructing a dwelling thereon in the future. He noted that a 50 ft. strip on the western side of his lot was acquired by the Baltimore Gas and Electric Company, thereby reducing the width of his lot and the building envelope size available for any construction in the future. Although not directly affected by the side yard setback which is the subject of this case, Mr. Bissett expressed reservations about the granting of the requested relief, fearing that it would detract from the rural character of the area and be inconsistent with other houses in the community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that the Petitioner will suffer practical difficulty if the variance is not granted. The unusual configuration of the subject lot is such that the Petitioner would be unduly restricted for a permitted purpose (i.e. residential development) if the Petition was denied. In addition, the variance requested will not cause any injury to the public health, safety and general welfare of the locale and will be consistent with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15th day of December, 1992 that a variance from Section 1A03.4.B.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a side yard setback of 11 ft. on the west side of the subject property, in lieu of the previously approved setback of 20 ft. in case No. 91-420-A, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever

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reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

December 11, 1992

Andrew I. David, Esquire
322 Timbergrove Road
Reisterstown, Maryland 21136

RE: Case No. 93-145-A
Petition for Variance
1000 Nicodemus Road

Dear Mr. David:

Enclosed please find the decision rendered in the above captioned case. The Petition for Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
Lawrence E. Schmidt
Zoning Commissioner

LES:mmm
att.
cc: Mr. David L. Bissett
452 Main Street
Reisterstown, Md. 21136



Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 1000 Nicodemus Road
which is presently zoned RC-4

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

1A03.4 B4 To allow a side setback of 11' on the west side in lieu of previously approved 20' in case 91-420A

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)
We are unable to fit the house we desire to build on the lot since it is so narrow

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Leasee

(Type or Print Name)

Signature

Address

City

Attorney for Petitioner

(Type or Print Name)

Signature

Address

City

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.)
Legal Owner(s)

(Type or Print Name)

Signature

Andrew I. David
(Type or Print Name)

Signature

322 Timbergrove Road 526-7130
Address

Reisterstown, Maryland 21136
City

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ESTIMATED LENGTH OF HEARING

Immediate for Hearing

the following date

ALL OTHER

REVIEWED BY: LG DATE: 10/22/92

150

93-145-A 150
M. & H. DEVELOPMENT ENGINEERS, INC.
200 EAST JOFFA ROAD
ROOM 101, SHELL BUILDING
TOWSON, MARYLAND 21204

MARCH 11, 1991

DESCRIPTION FOR VARIANCE OF
PROPERTY LOCATED IN BALTIMORE COUNTY
AT #1000 NICODEMUS ROAD

Beginning for the same at a point 1080 feet westerly measured from the intersection formed by Berrymans Lane and Nicodemus Road; thence N 53° 17' 49" W, 107.49 feet, thence N 12° 20' 11" E, 927.00 feet, thence S 65° 56' 10" E, 100 feet, thence S 12° 20' 11" W, 951.03 feet to the PLACE OF BEGINNING.

Containing 2.10 acres more or less.

By Deed reference Liber 1597, Folio 43A.



MALCOLM E. HUDKINS
REGISTERED SURVEYOR #5095

150

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11A Date of Posting: 11/24/92

Posted for: Andrew I. David

Petitioner: Andrew I. David

Location of property: 145 N. Woodman Rd., 1000' W of c/l Barryman Lane

Location of Sign: Barryman Lane, south of R.H. Wilson

Remarks: None

Posted by: Mark Date of return: 11/11/92

Number of Signs: 1

Baltimore County
Zoning Administration & Development Management
211 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6180

Number: 93-145

10/29/92

PUBLIC HEARING FEES

010 POSTING SIGNS / ADVERTISING

LAST NAME OF OWNER: DAVID

04A0480029WICHRC
04 C001:47AM10-29-92

Please Make Checks Payable To: Baltimore County

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

DATE: 11/24/92

Andrew I. David
322 Timbergrove Road
Reisterstown, Maryland 21136

RE:
CASE NUMBER: 93-145-A (Item 150)
1000 Woodman Road, 1000' W of c/l Barryman Lane
4th Election District - 3rd Councilmanic
Petitioner(s): Andrew I. David
HEARING: TUESDAY, DECEMBER 8, 1992 at 9:00 a.m. in Rm. 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that \$ 65.65 is due for advertising and posting of the above captioned property and hearing data.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via registered mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Carl John
ARNOLD JARLAN
DIRECTOR

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

NOV 04 1992

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-145-A (Item 150)
1000 Woodman Road, 1000' W of c/l Barryman Lane
4th Election District - 3rd Councilmanic
Petitioner(s): Andrew I. David
HEARING: TUESDAY, DECEMBER 8, 1992 at 9:00 a.m. in Rm. 118, Old Courthouse.

Variance to allow a side setback of 11 feet on the west side in lieu of previously approved 20 feet in case 93-140-A.

Lawrence S. Schmidt
Lawrence S. Schmidt
Zoning Commissioner of Baltimore County

CC: Andrew I. David

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

CERTIFICATE OF PUBLICATION

TOWSON, MD. 11/12, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/12, 1992

THE JEFFERSONIAN,
S. Zake Orlov
Publisher

\$65.65

Baltimore County
Zoning Administration & Development Management
211 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6180

Number: 93-145

12/09/92

PUBLIC HEARING FEES

080 POSTING SIGNS / ADVERTISING

LAST NAME OF OWNER: DAVID

04A0480029WICHRC
04 C003:01PM12-09-92

Please Make Checks Payable To: Baltimore County

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

November 30, 1992

Mr. Andrew I. David
322 Timbergrove Road
Reisterstown, MD 21136

RE: Case No. 93-145-A, Item No. 150
Petitioner: Andrew I. David
Petition for Variance

Dear Mr. David:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Baltimore County Government
Office of Zoning Administration and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

Your petition has been received and accepted for filing this 29th day of October, 1992.

Carl John
ARNOLD JARLAN
DIRECTOR

Received By:
W. Carl Richbach Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Andrew I. David
Petitioner's Attorney:

DPW/Developers Engineering Division (Public Services)
Development Review Committee Response Form
Authorized signature: *David A. Ramsey* Date: 11/16/92

File Number	Waiver Number	Zoning Issue	Meeting Date
✓ Anthony J. and Susan M. DiBartolomeo	140		11-9-92 NC
DED DEPRM RP STP TE			
✓ Irving R. and Joyce L. Bauer	149		NC
DED DEPRM RP STP TE			
✓ Andrew I. David	150		NC
DED DEPRM RP STP TE			
Baltimore Cnty Landsdowne Vol Fire Dept.	151		Comment
DED DEPRM RP STP TE			
✓ John P. and Brenda J. Jordan	152		NC
DED DEPRM RP STP TE			
✓ Michael and Nadine Bertazon	153		NC
DED DEPRM RP STP TE			
Richard M. Diette	155		Comment
DED DEPRM RP STP TE			
COUNT 7			
Stonegate at Patapsco (Azeal Property)			6-1-92
90476			
ZON DED TE (Waiting for developer to submit plans first)			
COUNT 1			
FINAL TOTALS			
COUNT 8			

*** END OF REPORT ***

Rec'd 11/17/92

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Julia Winiarski
Zoning Administration and Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 4150 (LTC)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact David Ramsey at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
David A. Ramsey 11/9/92
John Constabile, Chief
Engineering Access Permits
Division

Rec'd 11/5/92

My telephone number is _____

Teletypewriter for Impaired Hearing or Speech
383-7858 Baltimore Metro - 888-8451 D.C. Metro - 1-800-482-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: November 12, 1992

FROM: Ervin McDaniel, Chief
Office of Planning and Zoning
Development Review Section

SUBJECT: Petitions from Zoning Advisory Committee
(November 9, 1992)

The Office of Planning and Zoning has no comments on the following petition(s):

Anthony and Susan DiBartolomeo, Item No. 140
Irving and Joyce Bauer, Item No. 149
Andrew I. David, Item No. 150
John and Brenda Morgan, Item No. 152
Michael and Nadine Bertazon, Item No. 153

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

Prepared by: Francis Morsey

Division Chief: Ervin McDaniel

EMCD/FM:rdn

140/53.ZAC/ZAC1

DPW/Traffic Engineering
Development Review Committee Response Form
Authorized signature: [Signature] Date: 11/16/92

Project Name: Edward L. And Linda M. Gittings Meeting Date: 11-2-92
File Number: 134 W/L

COUNT 1

✓ Anthony J. and Susan M. DiBartolomeo 140 N/C 11-9-92
LED DEPRM RP STP TE

✓ Irving F. and Joyce L. Bauer 149 N/C
DED DEPRM RP STP TE

✓ Andrew I. David 150 N/C
DED DEPRM RP STP TE

Baltimore Cnty Landsdowne Vol Fire Dept. 151 MT
DED DEPRM RP STP TE

✓ John P. and Brenda J. Morgan 152 N/C
DED DEPRM RP STP TE

✓ Michael and Nadine Bertazon 153 N/C
DED DEPRM RP STP TE

Richard M. Diette 155 W/L
DED DEPRM RP STP TE

COUNT 7

Stonegate at Patapsco (Aerial Property) 6-1-92
90476
ZON DED TE (Waiting for developer to submit plans first)

FINAL TOTALS
COUNT 9

Rec'd 11/17/92

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: November 18, 1992

FROM: J. Lawrence Pilson JLP/11/18/92
Development Coordinator, DEPRM

SUBJECT: Zoning Item #150
1000 Nicodemus Road
Zoning Advisory Committee Meeting of November 9, 1992

The Department of Environmental Protection and Resource Management offers the following comments on the above referenced zoning item.

Soil evaluations were conducted on 2/8/91. Revised plans were requested by letter dated 2/29/91 and must be submitted to this office prior to building permit approval.

The EIRD has no comments on this item.

LP:sp

NICODEN/TXTSP

93-145-A 12-P-92
Baltimore County Government
Fire Department
700 East Joppa Road Suite 901
Towson, MD 21204-5500
NOVEMBER 18, 1992

(410) 887-4500



Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: ANDREW I. DAVID

Location: #1000 NICODEMUS ROAD

Item No.: 150 (LJG) Zoning Agenda: NOVEMBER 9, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature]
Planning Group
Special Inspection Division

JP/REK

Rec'd 11/17/92

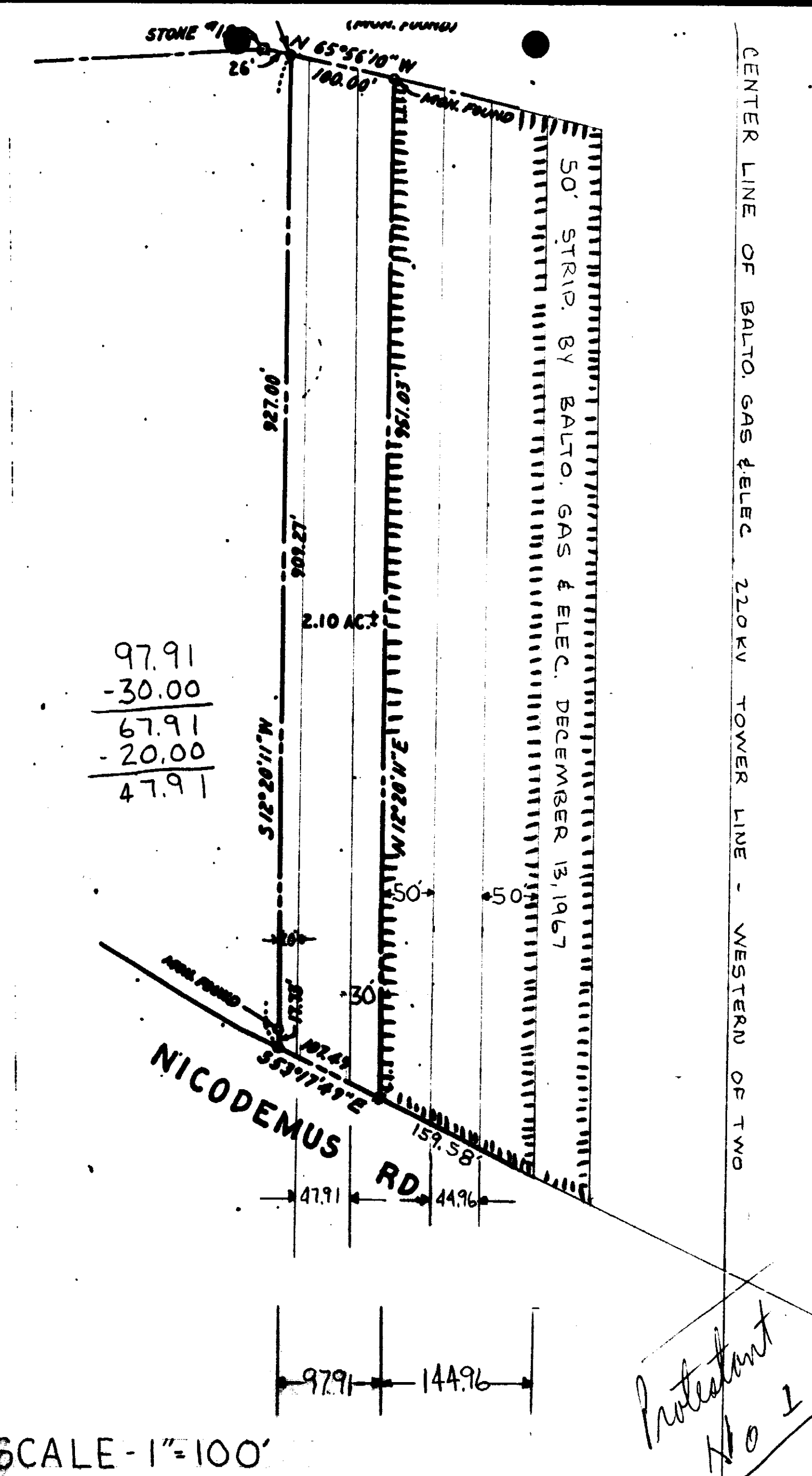
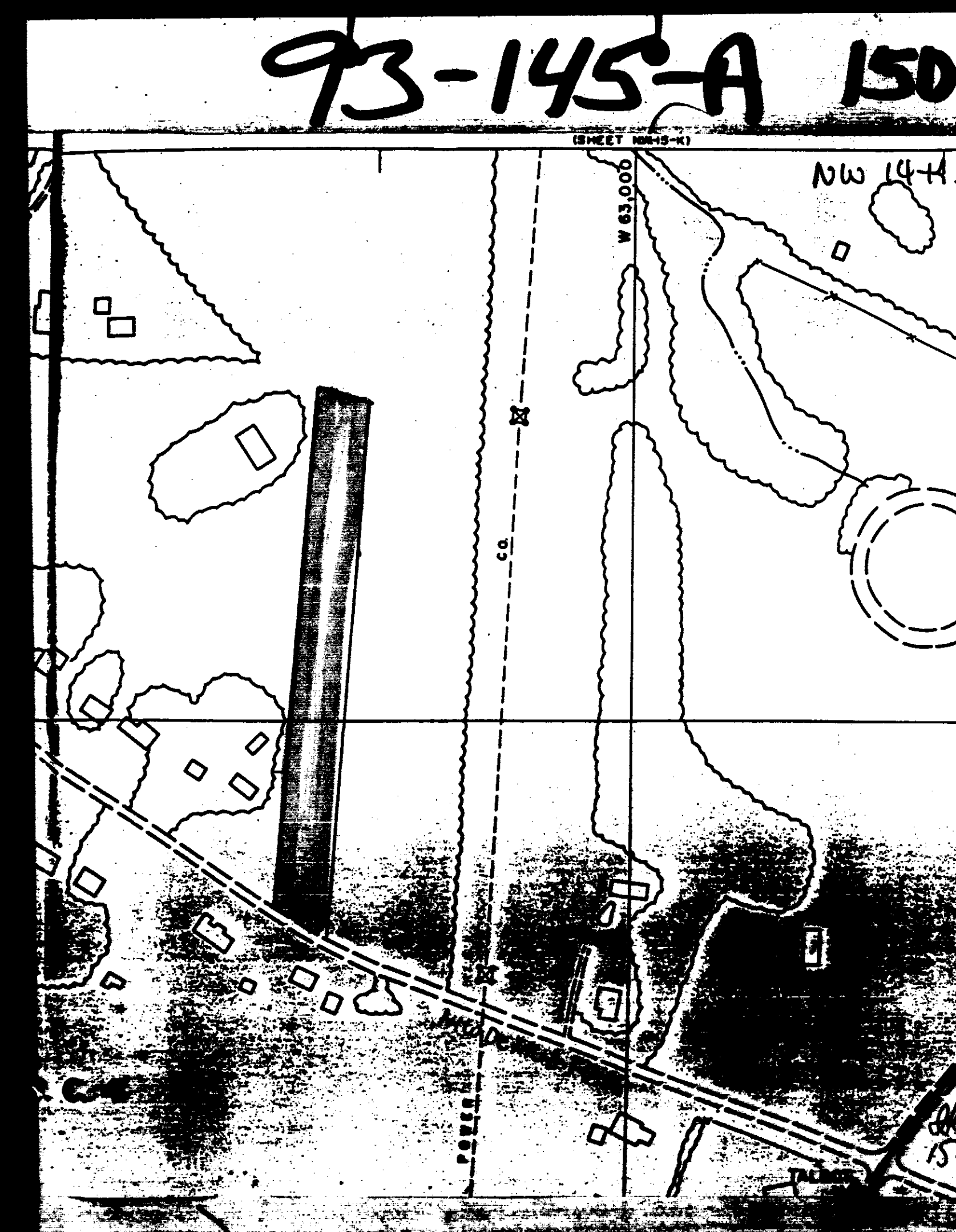
PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME: Andrew David ADDRESS: 333 Timberview Rd, Reisterstown, Md 21136
333 Timberview Rd
Reisterstown

PROTESTANT(S) SIGN-IN SHEET

NAME: DAVID L. BISSETT ADDRESS: 452 MAIN STREET



Mr. & Mrs. Jerry Myers
1016 Nicodemus Road
Reisterstown, Md 21136

10/15/92

To whom it may concern,

We are in agreement and extended our consent for Andrew David to locate his future home 11 feet from our property line instead of the existing 20 feet.

It can be reached at 833.7994 if there are any questions

Sincerely,
[Signature]

PETITIONER'S
EXHIBIT 104

150

